



April 3, 2007

ENGROSSED SENATE BILL No. 536

DIGEST OF SB 536 (Updated March 28, 2007 4:49 pm - DI 103)

Citations Affected: IC 5-28.

Synopsis: Accelerated growth grant and loan program. Establishes the high growth business incentive grant and loan program to provide incentives for a high growth business with high skilled jobs to locate or expand in Indiana.

Effective: July 1, 2007.

Ford

(HOUSE SPONSORS — AUSTIN, BORROR)

January 23, 2007, read first time and referred to Committee on Tax and Fiscal Policy.
February 15, 2007, amended, reported favorably — Do Pass.
February 20, 2007, read second time, ordered engrossed.
February 21, 2007, engrossed.
February 22, 2007, read third time, passed. Yeas 46, nays 3.

HOUSE ACTION

February 27, 2007, read first time and referred to Committee on Small Business and Economic Development.
April 3, 2007, amended, reported — Do Pass.

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April 3, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 536

A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-28-28.4 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]:

4 **Chapter 28.4. High Growth Business Incentive Grant and Loan**
5 **Program**

6 **Sec. 1. As used in this chapter, "agreement" refers to one (1) or**
7 **more documents constituting an agreement between the**
8 **corporation and an applicant that sets forth the:**

9 (1) applicant's intent to engage in a project; and

10 (2) terms and conditions under which a grant or loan is
11 awarded.

12 **Sec. 2. As used in this chapter, "applicant" refers to a high**
13 **growth company with high skilled jobs that offers to engage in a**
14 **project.**

15 **Sec. 3. As used in this chapter, "board " refers to the governing**
16 **body of the corporation.**

17 **Sec. 4. As used in this chapter, "corporation" refers to the**

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Indiana economic development corporation.

Sec. 5. As used in this chapter, "fund" refers to the high growth business incentive fund established by section 9 of this chapter.

Sec. 6. As used in this chapter, "grant or loan" refers to a high growth business incentive grant or loan awarded from the fund established by section 9 of this chapter.

Sec. 7. As used in this chapter, "high growth company with high skilled jobs" means a company that satisfies all of the following conditions:

(1) The company:

(A) had at least a fifteen percent (15%) average annual growth in company earnings during the past three (3) years;

(B) is classified in an industry that had at least a fifteen percent (15%) average annual growth in earnings during the past three (3) years; or

(C) if the corporation is unable to determine the appropriate growth factor under clause (A) or (B), is entering a new product or process area in one (1) or more of the following industries:

(i) Life sciences.

(ii) Advanced manufacturing.

(iii) Information technology.

(iv) Another high growth industry as determined by the corporation.

(2) The company has a substantial number of employees in jobs:

(A) requiring postsecondary education or its equivalent; or

(B) that are in occupational codes classified as high skill by the Bureau of Labor Statistics, United States Department of Labor.

(3) The company has a substantial number of employees who earn at least the greatest of:

(A) one hundred fifty percent (150%) of the average wage in Indiana;

(B) one hundred fifty percent (150%) of the average wage in the county in which the company is located; or

(C) one hundred fifty percent (150%) of the average wage in the county in which the majority of the company's employees work or will work, if the county is different from the county described in clause (B).

Sec. 8. As used in this chapter, "project" means the location or

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expansion in Indiana of a business of a high growth company with high skilled jobs.

Sec. 9. (a) The high growth business incentive fund is established to be used exclusively for the purposes of this chapter. The fund shall be administered by the corporation.

(b) The fund consists of appropriations from the general assembly, gifts and grants to the fund, and other money deposited in the fund by law.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter.

Sec. 10. The corporation may award a grant or loan to an applicant for a project. The corporation may award the grant or loan to an applicant only if the corporation makes the following findings:

(1) The applicant's project will create new jobs that were not jobs previously performed by employees of the applicant in Indiana.

(2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.

(3) The political subdivisions affected by the project have committed significant local incentives with respect to the project.

(4) Receiving the grant or loan is a major factor in the applicant's decision to go forward with the project, and not receiving the grant or loan will result in the applicant not creating new jobs in Indiana.

(5) Awarding the grant or loan will result in an overall positive fiscal impact to the state, as determined using the best available data to the corporation.

(6) A majority of the applicant's employees, including employees who perform new jobs described in subdivision (1), participate or will participate in a health insurance program offered by the applicant.

Sec. 11. The corporation, with the approval of the board and the budget agency, shall determine:

(1) the amount of the grant or loan to award for a project; and

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(2) the terms and conditions under which the grant or loan is awarded.

Sec. 12. Before a distribution of a grant or a loan may be made from the fund, the budget agency must approve the grant or loan. After approval by the board, the corporation shall submit its recommendation concerning a proposed grant or loan to the budget agency in the form and in the manner specified by the budget agency. The budget agency shall review the recommendation and submit the recommendation to the budget committee for review. After review by the budget committee, the budget agency may approve, deny, or modify the recommendation.

Sec. 13. A grant or loan may not be made to provide a recurring source of revenue for the normal operating expenditures of a project.

Sec. 14. In determining the amount of the grant or loan that should be awarded to an applicant, the corporation and the budget agency may take into consideration the following factors:

(1) The economy of the county where the projected investment is to occur.

(2) The potential for the growth of the applicant's business in Indiana and the impact of the project on the economy of Indiana.

(3) The number of jobs and the incremental payroll attributable to the project.

(4) The capital investment and investment in intellectual and other intangible property that is attributable to the project.

(5) The proposed:

(A) number of Indiana employees with the project who will earn at least one hundred fifty percent (150%) of Indiana per capita personal income;

(B) average wage that will be paid to Indiana employees with the project who will earn at least one hundred fifty percent (150%) of Indiana per capita personal income; and

(C) average wage payable by the applicant to all Indiana employees with the project.

(6) The costs to Indiana and the affected political subdivisions with respect to the project.

(7) The financial assistance and incentives that are otherwise provided by Indiana and the affected political subdivisions.

Sec. 15. Whenever a grant or loan is awarded to an applicant, the corporation shall enter into an agreement with the applicant.

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The agreement must set forth:

- (1) the obligations of the corporation and the applicant;**
- (2) the terms and conditions under which the grant or loan is awarded to the applicant; and**
- (3) the remedies available upon default, including a provision requiring the repayment of grant or loan proceeds by the applicant to the corporation, unless the corporation determines that a repayment provision is unnecessary.**

The agreement must specify that the agreement is binding on the applicant and the applicant's successors.

Sec. 16. An agreement may provide that repayment of a loan granted to the applicant is partly or fully waived upon the completion of one (1) or more conditions specified in the agreement.

Sec. 17. An agreement may provide that if the applicant defaults on the terms and conditions specified in the agreement, the state may offset any amount that would otherwise be due from the state to the applicant against any amount owed to the state for a default under the agreement.

Sec. 18. Subject to the terms of an agreement with an applicant, a grant or loan may be used for any of the following purposes:

- (1) Payment of expenses incurred by the applicant or another entity in training employees who reside in Indiana and will be employed in the project.**
- (2) Payment of relocation expenses incurred by the applicant that are directly attributable to the project, including the cost of maintaining another facility in Indiana or another state until the facilities for the project are placed in service for a project.**
- (3) Payment of costs incurred by the applicant to purchase or pay lease rental payments on a capital lease for new or replacement equipment for the project.**
- (4) Payment of property assembly and development costs incurred by the applicant for the project, including:**
 - (A) the purchase, lease, or construction of buildings and land;**
 - (B) infrastructure improvements;**
 - (C) site development costs; and**
 - (D) design, survey, and other planning costs.**
- (5) Payment of any capital investment costs incurred by the applicant for the project.**
- (6) Payment of costs for improvements incurred by the**

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1 applicant or another person related to transportation and
2 access to the project.

3 (7) Payment of the principal and interest on bonds or loans or
4 the establishment of a reserve for bonds or loans issued to pay
5 any cost described in this section.

6 (8) Payment of the costs of obtaining a license to use a patent
7 or other intangible property in Indiana at the project.

8 Sec. 19. The corporation may adopt rules and guidelines to
9 implement this chapter.

10 Sec. 20. The corporation shall annually report to the general
11 assembly in an electronic format under IC 5-14-6 the details and
12 status of all grants and loans made under this chapter, including
13 the identity of the recipients of grants or loans. The corporation
14 may redact any private proprietary information reasonably
15 necessary to preserve the intellectual property rights, proprietary
16 business practices, and legitimate trade secrets of a recipient of a
17 grant or loan.

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 536, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 10, after "grant" insert "**or loan**".

and when so amended that said bill do pass.

(Reference is to SB 536 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Small Business and Economic Development, to which was referred Senate Bill 536, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 1, delete "IC 5-28-28" and insert "IC 5-28-28.4".

Page 1, line 4, delete "28." and insert "**28.4**".

Page 2, delete line 14.

Page 2, line 15, delete "(C)" and insert "**(B)**".

Page 2, line 17, delete "." and insert "; or

(C) if the corporation is unable to determine the appropriate growth factor under clause (A) or (B), is entering a new product or process area in one (1) or more of the following industries:

(i) Life sciences.

(ii) Advanced manufacturing.

(iii) Information technology.

(iv) Another high growth industry as determined by the corporation."

Page 2, line 25, after "least" insert "**the greatest of:**

(A)".

Page 2, line 25, delete "Indiana per" and insert "**the average wage in Indiana;**".

Page 2, delete line 26, begin a new line double block indented and insert:

"(B) one hundred fifty percent (150%) of the average wage

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**in the county in which the company is located; or
(C) one hundred fifty percent (150%) of the average wage
in the county in which the majority of the company's
employees work or will work, if the county is different
from the county described in clause (B)."**

Page 3, between lines 19 and 20, begin a new paragraph and insert:

**"(6) A majority of the applicant's employees, including
employees who perform new jobs described in subdivision (1),
participate or will participate in a health insurance program
offered by the applicant."**

Page 4, line 28, delete "." and insert ", including a provision
requiring the repayment of grant or loan proceeds by the applicant
to the corporation, unless the corporation determines that a
repayment provision is unnecessary."

and when so amended that said bill do pass.

(Reference is to SB 536 as printed February 16, 2007.)

ORENTLICHER, Chair

Committee Vote: yeas 10, nays 1.

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